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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,934	11/13/2001	Ann M. Nichols	KCC 4729.1 (16,210.1)	8461
321	7590	11/02/2005	EXAMINER	
SENNIGER POWERS			JOHNSON, JERROLD D	
ONE METROPOLITAN SQUARE				
16TH FLOOR			ART UNIT	PAPER NUMBER
ST LOUIS, MO 63102			3728	

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/010,934	NICHOLS ET AL.	
	Examiner	Art Unit	
	Jerrold Johnson	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-13, 15, 17-19, 21, 23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-13, 15, 17-19, 21, 23 and 25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05 Oct. 2005</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Applicant's arguments presented in the amendment filed 22 September 2005 have been considered and are persuasive. However, these arguments are now moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-13,15,17-19,21,23, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones US 3,557,853 in view of McCormick US 5,844,771 and Perecman US 4,502,599 or in the alternative, McCormick US 5,844,771 in view of Jones US 3,557,853 and Perecman US 4,502,599.

Jones discloses a package comprising a plural number of individually wrapped absorbent feminine care articles and a reclosable packaging comprising a middle portion, a back portion, a flexible pocket of one piece construction having a hollow interior, an opening into the hollow interior, a flap attached to the pocket, and a reclosable closure on the flap for releasably securing the flap in its closed position on the exterior area of the middle portion of the pocket.

The reclosable closure is not adhesive. However, the reclosable closure is spaced from a distal edge of the flap. Additionally, the reclosable closure does allow for some adjustability of the position of the flap with respect to the middle portion of the pocket. The reclosable closure is not, however, releasably securable by said releasable closure substantially anywhere on said exterior area of the middle portion of the pocket.

Jones does not explicitly show "individually wrapped" feminine care products, as has not been argued by the Applicant subsequent to this Office Action. However, Jones does disclose unused feminine care products, and feminine care products are known to be provided in an individually wrapped configuration.

McCormick in col. 3, lines 25-46 describes various configurations and materials for packages designed to hold a plurality of feminine care products. The exemplary packages are of an envelope form like that of the present application and that of Jones of a reclosable packaging comprising a middle portion, a back portion, a flexible pocket of one piece construction having a hollow interior, an opening into the hollow interior, a flap attached to the pocket, and a reclosable closure on the flap for releasably securing the flap in its closed position on the exterior area of the middle portion of the pocket. Additionally, McCormick in col. 3, lines 34-36 discloses the use of an adhesive for use as the reclosable closure.

Perecman, in particular in Fig. 5, discloses a packaging consistent with the description suggested by McCormick. The package includes a resealable bag having an adhesive reclosable closure that is both spaced from the distal end of the flap and

that is releasably securable by said releasable closure substantially anywhere on said exterior area of the middle portion of the pocket, as claimed.

Accordingly, it would have been obvious to one of ordinary skill in the art to have provided the package of Jones in the configurations suggested by McCormick and Perekman so as to provide a packaging for feminine care products having a low labor and materials cost to manufacture.

With respect to dependent claims 2-13, 15, 17 and 18, none of the sizes set forth in these claims have been indicated as critical, and it would be within the purview of a skilled artisan to optimize these sizes to meet the necessary criteria of the products use, e.g. estimated number of times of reclosure.

With respect to the type of adhesive used, those set forth in claims 11 and 12 are among many considered to be art recognized equivalents and their use would similarly be obvious to a skilled artisan.

With respect to the type of feminine care product, those set forth in claims 17 and 18 fall within the categories set forth in Jones and Perekman.

Alternatively:

McCormick in col. 3, lines 25-46 describes various configurations and materials for packages designed to hold a plurality of feminine care products. The exemplary packages are of an envelope form like that of the present application of a reclosable packaging comprising a middle portion, a back portion, a flexible pocket of one piece construction having a hollow interior, an opening into the hollow interior, a

flap attached to the pocket, and a reclosable closure on the flap for releasably securing the flap in its closed position on the exterior area of the middle portion of the pocket. Additionally, McCormick in col. 3, lines 34-36 discloses the use of an adhesive for use as the reclosable closure.

McCormick's package is explicitly disclosed as being useful for the disposal of feminine care products. McCormick does not set forth the use of the package with unused individually wrapped feminine care products (note that "unused" is not claimed, only "individually wrapped") but does provide a package that is inherently capable for this use, and the kit disclosed by McCormick is also for the purpose of packaging unused products.

Jones explicitly teaches how a package like that disclosed by McCormick could be used for individually wrapped feminine care products.

Perecman teaches how a package as disclosed by McCormick could be configured including the adhesive reclosable closure disclosed by McCormick.

Accordingly, it would have been obvious to one of ordinary skill in the art to have used the package of McCormick with individually wrapped feminine care products as taught by Jones so as to transport the products in a discreet package.

It further would have been obvious to provide the package of McCormick with the configuration as taught by Perecman so as to provide an inexpensive reclosable closure, thus minimizing manufacturing costs.

Re claims 2-13,15,17 and 18, none of the sizes set forth in these claims have been indicated as critical, and it would be within the purview of a skilled artisan to

optimize these sizes to meet the necessary criteria of the products use, e.g. estimated number of times of reclosure.

With respect to the type of adhesive used, those set forth in claims 11 and 12 are among many considered to be art recognized equivalents and their use would similarly be obvious to a skilled artisan.

With respect to the type of feminine care product, those set forth in claims 17 and 18 fall within the categories set forth in Jones and Perekman.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mickey Yu
Supervisory Patent Examiner
Group 3700